19 47. **File No.** Prov. Funds II/47

Legal Department.

B. **BRANCH**

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**Subject:—**

Rules and notifications ~~of~~
under the provincial Funds
Act, 1925

File No. Prov. Funds II/47

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CM/12.3. 29/6

Office of the H.I.A.

The draft notifications at pages 139 and 143, as slightly amended, are in order. The second draft notification on page 143 should be under sub-section (2) and not sub-section (3) of section 8 of the Provident Funds Act, 1925.

Sd/- D.V.Ryan.

Secretariat of Legal Affairs.

U.R. to H.D.No. 177, dated the 7th January 1947.

BHT/11.5.

Revenue Department.
Bombay Castle. (October 1946.)

Provident Funds Act. 1925.

No.5362/33(2). In exercise of the powers conferred by sub-section (3) of section 8 of the Provident Funds Act, 1925(XIX of 1925), the Government of Bombay is pleased to add to the Schedule to the said Act the name of the following public institution, namely:-

The G.I.P. Railway Employees' Co-operative Bank, Ltd.

By order of the Governor of Bombay,

(M.J. Desai),
Secretary to Government.

(To be published in part I of the Bombay Government Gazette; to be returned with 6 copies of the Notification.).

( Secretary to Government.).

Revenue Department.
Bombay Castle, (October 1946.)

Provident Funds Act, 1925.

No.5362/33-I. In exercise of the powers conferred by sub-section 2 of Section 5 of the Provident Funds Act, 1925 (XIX of 1925) and with reference to (Revenue Department) Government Notification in the Revenue Department No.5362/33(1), dated the October 1946.) The Government of Bombay is pleased to direct that the provisions of the said Act shall apply to the provident fund established for the benefit of the employees of the institution specified in the said notification.

By order of the Governor of Bombay,

(H. J. Desai).

Secretary to Government.

(To be published in part I of the Bombay Government Gazette to be returned with 6 copies of the Notification.

Secretary to Government.)

cmt/11.5.

Office of the R.L.A.

In place of the draft notification at page 111 ante,revised draft notifications are sent herewith. The following remarks are made, namely :-

(a) By Government Notification, Revenue Department No.5362/33(a), dated the 12th January 1938, issued under section 8(3) of the Provident Funds Act, 1925, the Government added to the Schedule to the said Act certain names of the public institutions, while by Government Notification, Revenue Department, No.5362/33(b) of the same date issued under section 8(2) of the said Act the Government directed that the provisions of the said ACT Act shall apply to provident funds established for the benefit of the employees of these public institutions. The draft forwarded by the Revenue Department does not refer to the former Notification. But as that notification also contains the names of the public institutions sought to be amended, it will also requires to be amended. As both the notifications are issued under different sub-sections of section 8 of the Provident Funds Act,1925, they will also have to be amended by two different notifications.

(b) By Government Notification, Revenue Department, No.5362/33(a), dated the 20th April 1943 issued under section 8(3) of the Provident Funds Act, 1925, the Government added to the Schedule to the said Act more names of the public institutions. This notification has been amended by the same Notification amending the Government Notification, Revenue Department, No.5363/33(a), dated the 12th January 1938 referred to above. Since Government Notification, Revenue Department, No.5363/33(b), dated the 20th April 1943 under section 8(2) does not specify any name of the public institution, it is not necessary to amend it.

Sd/- D.V.Vyas.

Remembrancer of Legal Affairs.

U.O. to R.D. No. 236, dated the 10th January 1947.

GNT/11.5.

Revenue Department.
Bombay Castle, 1946.

Provident Funds Act, 1925.

No. :- In exercise of the powers conferred by sub-section (3) of section 8 of the Provident Funds Act, 1925 (XIX of 1925), the Government of Bombay is pleased to amend the Government Notifications in the Revenue Department, No.5362/33(a), dated the 12th January 1938 and No. 5362/33(a), dated the 20th April 1943, as follows namely :-

(1) in the Government Notification in the Revenue Department No.5362/33(a), dated the 12th January 1938,

(a) the entries at serial Nos. 3 and 9 shall be deleted, and

(b) for the entries Nos. 4,5,6 and 8, the following shall be substituted, namely :-

| Serial Number | Institutions. |
|---|---|
| 4 | The Broach Co-operative Bank, Limited. |
| 5. | The Surat District Co-operative Bank, Limited. |
| 6 | The Poona Central Co-operative Bank, Limited. |
| 8 | The East Khandesh Central Co-operative Bank, Limited. |

(11) for the entries Nos. 1,10,13,20 and 31 in the Government Notification in the Revenue Department No.5362/33(a), dated the 20th April 1943, the following shall be substituted, namely:-

| Serial | Institutions. |
|---|---|
| 1 | The Amalner Co-operative Urban Bank Limited. |
| 10 | The Sardar Dhilodwala Parsi Panchayat Co-operative Bank, Limited. |
| 13 | The No. 1 Military Accounts Co-operative Credit Bank, Limited. |
| 20 | The Belgaum Pioneer Urban Co-operative Credit Bank, Limited. |
| 31 | The Chandraseniya Kayastha Prabhu Co-operative Credit Bank, Limited. |

By order of the Governor of Bombay,

E/11.5. Secretary to Government.

Revenue Department,
Bombay Castle, 1946.

No. .- In exercise of the powers conferred by sub-section (2) of section 6 of the Provident Funds Act, 1925 (XIX of 1925 ), and with reference to Government Notification in the Revenue Department No. 5362/33(a), dated the 12th January 1939, as amended by Government Notification in the Revenue Department No. dated the 1946, the Government of Bombay is pleased to amend the Government Notification in the Revenue Department No. 5362/33(b), dated the 12th January 1939, as follows, namely :-

Provident Funds Act, 1925.

(a) the entries at serial Nos. 3 and 9 shall be deleted; and

(b) for the entries Nos. 4,5,6 and 8, the following shall be substituted, namely :-

| Serial Number | Institutions. |
|---|---|
| 4 | The Broach Co-operative Bank, Limited. |
| 5 | The Surat District Co-operative Bank, Limited. |
| 6 | The Poona Central Co-operative Bank, Limited. |
| 8 | The East Khandesh Central Co-operative Bank, Limited. |

By order of the Governor of Bombay,

Secretary to Government.

H/11.5.

Office of the R.L.A.

Under section 8(1) of the Provident Funds Act, 1925 the appropriate Government may by notification direct that the provisions of the Act shall apply to any provident fund established for the benefit of its employees by any local authority within the meaning of the local Authorities Loans Act, 1914. Section 2 of the Local Authorities Loans Act defines a "local authority" to mean any person legally entitled to the control or management of any local or municipal fund, or legally entitled to impose any cess, rate, duty or tax within any local area. Neither the Court of Small Causes administering the wakf fund nor the Registrar administering the trust funds can be said to be a person legally entitled to impose any cess, rate, duty or tax within his respective local areas. It is difficult in my opinion to hold that they are persons legally entitled to the control or management of any local fund. The justaposition of the words "local" and "municipal" must receive due consideration. It is apparent that the word "local" is used in contradistinction to the word "municipal", the expectation being that both possess the common characteristic of funds pertaining to Local Self Government. The term "local fund" occuring in that definition cannot be given the meaning of a fund merely confined to any locality whatever be the nature of its origin or administration. Attention is in this connection invited to section 74 of the Bombay Local Boards Act, 1923 which says that there shall be in each district a fund which shall be called the local fund. The words "local auhtority" used in section 8(1) of the Provident Funds Act derive their meaning from the Local Authorities Loans Act. The expression used is "within the meaning of" and not "as defined in section 2" of the Local Authorities Loans Act. The definition in section 2 of the Local Authorities Loans Act and the whole tenor of that Act suggest that it was not intended to apply to authorities like courts of Small Causes or Registrars administering special funds. It is not worthy that even the Court of wards is specially included in the list of institutions under section 8(2) of the Provident Funds Act.

(P.T.O.

2. I am, therefore, of opinion that section 8(1) would not e applicable to these cases, and consequently it will not be feasible o issue a notification under that section.

Sd/- P.M.Lad.

Remembrancer of Legal Affairs.

.R. to R.D. No.6310 , dated the 18th June 1947.

SMT/11.5.

Office of the R.L.A.

The proposal made by the Chief Judge of the Small Causes Court is that the Wakf and Trust Department of the Small Causes Court be added as a public institution to the list of institutions given in the Schedule to the Provident Funds Act, 1925. In the first place, the Department is not a Department of the Court as the Trust branches thereof are under the direct control of the Registrar, whereas the Wakf branch is under the control of the Court proper. Apart from that consideration, a Department of a Court or of any Government office cannot be called an institution. The word "institution" which has been used in section 6(2) and (3) of the Act has not been defined in the Act itself. It is by no means easy to give a definition of the word "institution that will cover every use of it. Its meaning must always depend upon the context in which it is found. The content of sub-section (2) As illustrated by the list suggests that by an "institution" is meant an organization for promotion of some public object either brought into existence by a Statue, as for example, the Court of Wards, or by association of founders or organizers. The list of institutions given in the Schedule shows that only institutions of this kind are contemplated and not merely Departments of administration or of other Government business. There is no statutory institution called the Wakf and Trust Department; nor is it an association of persons designated by that name. Besides, the recognition of the Department as an institution would lead to the further difficulty that wherever in other Courts in the mofussil persons are employed in connection with, and paid out of, the Wakf Fund, similar recoguition would have to be extended to them also. On the whole, the proposal does not appear legally feasible.

2. It is my recollection that Government has passed Orders under which employees of the Court can be lent to the Wakf Fund in which case they continue x to enjoy all the usual rights and benefits of a Government servant though the actual payment is made out of the Wakf Fund. As District Judge of Poona, I had myself so lent a clerk from the Court establishment to the Wakf Fund. It is a matter for Government's consideration whether some uniform system

system of lending clerks to administer Wakf Funds should not be evolved both for the sake of continuity of administration and for giving proper conditions of employment and remunerations to the establishment concerned. If that could be done, the benefit of a Provident Fund need not be separately provided for.

Sd/- P.M.Lal.

Remembrancer of Legal Affairs.

U.O. to H.D. No.13230 , dated the 20th December 1947.

SIT/11.9.